

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

RANDY SCOTT DANIELS,

Petitioner,

v.

CASE No. 2:08-CV-11533
HONORABLE PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

MICHAEL CURLEY,

Respondent,

_____ /

OPINION AND ORDER DENYING THE MOTION FOR A NEW TRIAL

On April 9, 2008, petitioner filed a *pro se* habeas corpus petition pursuant to 28 U.S.C. § 2254, in which he challenged his 2001 convictions out of the Wayne County Circuit Court for aggravated stalking and being a fourth felony habitual offender. After determining that this was a successive challenge by petitioner to these convictions, this Court transferred the case to the United States Court of Appeals for the Sixth Circuit for petitioner to obtain authorization pursuant to 28 U.S.C. § 2244(b)(3)(A) to file a successive petition for writ of habeas corpus. The United States Court of Appeals for the Sixth Circuit subsequently denied petitioner permission to file a successive habeas petition. *In Re Daniels*, U.S.C.A. No. 08-1655 (6th Cir. August 6, 2009).

Petitioner has now filed a motion for a new trial, in which he again challenges his aggravated stalking and domestic violence convictions.

A district court lacks the authority to reinstate a habeas petitioner's second or successive petition for writ of habeas corpus after the Court of Appeals declines to grant petitioner leave to

file such a petition. *See White v. Carter*, 27 Fed. Appx. 312, 313-14 (6th Cir. 2001). Accordingly, this Court will deny petitioner's motion for a new trial.

IT IS HEREBY ORDERED that the motion for a new trial [Dkt. # 5] is **DENIED.**
SO ORDERED.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: August 6, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on August 6, 2010.

S/Denise Goodine
Case Manager